

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 22-22671-CIV-ALTONAGA/Torres

DELIO BATISTA, et al.,

Plaintiffs,

v.

AVANT ASSURANCE INC., et al.,

Defendants.

/

ORDER

THIS CAUSE came before the Court on Defendants Avant Assurance, Inc., Reinier Cortes, and Andrea Gonzalez Quintero's Corrected Motion for Summary Judgment [ECF No. 70] (the "Corrected Motion"), filed on May 19, 2023. Defendants previously filed a First Motion for Summary Judgment [ECF No. 63] (the "First Motion") and Statement of Material Facts [ECF No. 59] (the "First SOF"). The Court denied the First Motion and SOF because they were deficient and failed to comply with the Local Rules. (*See generally* May 18, 2023 Order [ECF No. 67]). Remarkably, Defendants' Corrected Motion and new Statement of Material Facts [ECF No. 70-1] (the "SOF") are still deficient and fail to comply with the Local Rules.

Under Local Rule 56.1(a)(1), "[a] motion for summary judgment . . . shall [] be accompanied by a separate and contemporaneously filed and served Statement of Material Facts." *Id.* (alterations added). "All Statements of Material Facts . . . shall be filed and served as separate documents and not as exhibits or attachments." *Id.* 56.1(b)(1) (alteration added). "If a party files and serves any Statement of Material Facts that does not comply with this rule, then the Court may strike the Statement, require immediate compliance, grant relief to any opposing party for any prejudice . . . or enter other sanctions that the Court deems appropriate." *Id.*

56.1(d) (alteration added).

Despite the May 18, 2023 Order, Defendants have once again violated Local Rule 56.1. The SOF is filed as an attachment to the Motion, even though the Local Rules expressly require that the SOF be “filed and served as [a] separate document[] and not as [an] exhibit[] or attachment[].” Local Rule 56.1(b)(1) (alterations added). Clearly, Defendants did not heed the warning that the “Local Rule serves ‘to make review of summary judgment motions less burdensome on the Court.’” (May 18, 2023 Order 2 (citation omitted)).¹

The Corrected Motion is also — once again — flawed. (*See id.*). The Court cautioned Defendants that their First Motion was deficient because it failed “to cite either the [First SOF] or any other record materials.” (*Id.* 2 (alteration added; citation omitted)). Yet, aside from a cursory recitation of some language from the SOF (*see* Corrected Mot. 2–3), Defendants’ second attempt otherwise does little to remedy that prior deficiency (*see id.* 5–11). The Court reiterates that it “is under no duty to scour the record for facts not cited by the parties[.]” (May 18, 2023 Order 2 (alteration added; citation omitted)).

Rather than continue policing Defendants’ violations of the same Local Rule, the Court opts to deny the Corrected Motion without leave to refile. *See Stern v. SK Golden Inv., LLC.*, No. 21-20012-Civ, 2022 WL 4775084, at *1 (S.D. Fla. Aug. 24, 2022) (denying summary judgment because of repeated non-compliance with the Local Rules); *Ocean’s Bar & Grill, Inc. v. Indemnity Ins. Corp. RRG*, No. 11-61577-Civ, 2012 WL 2675435, at *3 (S.D. Fla. July 6, 2012) (denying plaintiff’s motion because by repeatedly not complying with Local Rule 56.1, the plaintiff failed to “inform the court of the basis for its motion”); *D & M Carriers, LLC v. M/V Thor Spirit*, No. 11-80722-Civ, 2012 WL 4747198 at *3 (S.D. Fla. Oct. 4, 2012) (noting the

¹ The Court relies on the pagination generated by the Case Management/Electronic Case Files system, which appears in the header on all filings.

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court's authority to deny summary judgment for violations of Local Rule 56.1). Defendants were given the opportunity to correct their deficiencies yet have failed to do so; the Court will not squander its and the parties' resources further by insisting on Defendants' compliance with the Rules. *See United States v. Marder*, 183 F. Supp. 3d 1231, 1235–36 (S.D. Fla. 2016). Accordingly, it is

ORDERED AND ADJUDGED that the Corrected Motion [ECF No. 70] is **DENIED** with prejudice.

DONE AND ORDERED in Miami, Florida, this 22nd day of May, 2023.



CECILIA M. ALTONAGA
CHIEF UNITED STATES DISTRICT JUDGE

cc: counsel of record